

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

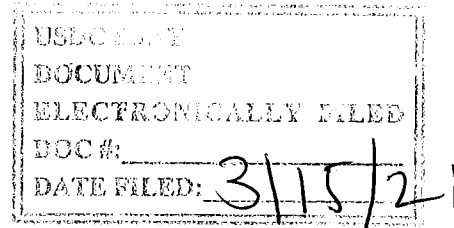
-----X  
DAVID EISENBACH, GEORGE H.  
EISENBACH, JOANNE EISENBACH,  
JENNIFER YOUNG, DANA CARINI,  
JONATHAN D. CHAMPLIN, ANNE  
CHAMPLIN, RAYMOND H. CHAMPLIN,  
KENNETH LEVINE, CATHERINE POLERA,  
JULIEN DAVIES, HOPE ROGERS, PHIL  
WEISS, CYNTHIA KING, JO MANGO, and  
LAURALEE HOLMBO

Plaintiffs,

v.

VILLAGE OF NELSONVILLE; VILLAGE OF  
NELSONVILLE ZONING BOARD OF  
APPEALS; VILLAGE OF NELSONVILLE  
PLANNING BOARD; WILIAM BUJARSKI,  
as Building Inspector of the Village of  
Nelsonville; HOMELAND TOWERS, LLC;  
NEW YORK SMSA LIMITED  
PARTNERSHIP d/b/a VERIZON WIRELESS;  
and NEW CINGULAR WIRELESS PCD LLC  
d/b/a AT&T MOBILITY,

Defendants.  
-----X



**ORDER**

20 CV 8566 (VB)

On March 1, 2021, defendants Homeland Towers, LLC, New Cingular Wireless PCD LLC, and New York SMSA Limited Partnership (the “Wireless defendants”) attempted to file a motion to dismiss the amended complaint. (Docs. ##35–36). Counsel for the Wireless defendants erroneously filed their memorandum of law and declaration in support as a “second motion to dismiss” without first filing a notice of motion to dismiss the amended complaint, as required by Local Civil Rule 6.1. (Doc. #35).

On March 11, 2021, the Clerk of Court terminated the Wireless defendants’ “second motion to dismiss” as improperly filed, and instructed them to re-file the relevant documents in accordance with the Clerk’s instructions. Counsel for the Wireless defendants failed to follow those instructions, and instead erroneously filed the documents as a “second memorandum of law” and declaration (Docs. ##37, 38) in support of their motion to dismiss the original complaint (Doc. #21). To be clear, the Wireless defendants are not moving to dismiss the original complaint; they are moving to dismiss the amended complaint.

In the interest of efficient docket management, and to preserve the clarity of the docket and any record that may later be the subject of an appeal, it is HEREBY ORDERED that:

1. The Wireless defendants shall file a notice of motion to dismiss the amended complaint by **March 19, 2021**. However, the Wireless defendants should not attempt to re-file their improperly filed "second memorandum of law" or the declaration in support. (Docs. ##37, 38). The Court will simply construe these documents as having been filed in support of the Wireless defendants' forthcoming motion to dismiss the amended complaint.
2. Plaintiffs' deadline to oppose the Wireless defendants' motion to dismiss the amended complaint is extended to **March 29, 2021**. Any reply shall be due **April 19, 2021**.
3. The Clerk is instructed to terminate the motion to dismiss the original complaint and plaintiffs' requests for extensions. (Docs. #21, 39, 40).

Dated: March 15, 2021  
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read "Vincent Briccetti", written over a horizontal line.

Vincent L. Briccetti  
United States District Judge